

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

MISTY BLANCHETTE PORTER, M.D.,

Plaintiff,

vs.

DARTMOUTH-HITCHCOCK MEDICAL CENTER, DARTMOUTH-HITCHCOCK CLINIC, MARY HITCHCOCK MEMORIAL HOSPITAL, and DARTMOUTH-HITCHCOCK HEALTH,

Defendants.

Case No. 2:17-cv-194

DEFENDANTS' PROPOSED VOIR DIRE QUESTIONS

Pursuant to Federal Rule of Civil Procedure 47(a) and this Court's *Memorandum concerning Attorney Voir Dire in Civil Cases*, filed January 3, 1996, Defendants Dartmouth-Hitchcock Medical Center, Dartmouth-Hitchcock Clinic, Mary Hitchcock Memorial Hospital, and Dartmouth-Hitchcock Health (collectively, "Defendants" or "Dartmouth Health") respectfully request that they be permitted to conduct attorney voir dire. In conjunction with this request, Defendants respectfully request that (1) the Court read the questions set forth in Section I *infra* to the venire; (2) Defendants be permitted to ask questions and reasonable follow-up questions of the jurors concerning the topics set forth in Section II *infra*.

I. Proposed Questions for the Court to Inquire of the Venire

Defendants respectfully request that the Court ask the following questions to the venire and allow the parties to ask reasonable follow-up questions seeking elaboration or explanation concerning juror responses:

- (1) Do you have any prior knowledge of this case?

- (2) Have you or any of your friends or family members ever been a patient at Dartmouth-Hitchcock Medical Center, Dartmouth-Hitchcock Clinic, Mary Hitchcock Memorial Hospital, and Dartmouth-Hitchcock Health? If yes, how was the experience?
- (3) Have you or any of your friends or family members ever worked for Dartmouth-Hitchcock Medical Center, Dartmouth-Hitchcock Clinic, Mary Hitchcock Memorial Hospital, and Dartmouth-Hitchcock Health? If yes, how was the experience?
- (4) Do you know any of the lawyers for Defendants, Don Schroeder, Morgan McDonald, Megan Martinez, or Tristram Coffin?
- (5) Do you know anyone who works for either of their law firms, Foley & Lardner or Downs Rachlin Martin PLLC?
- (6) Attorney Tristram Coffin also spent several years working as a federal prosecutor at the U.S. Attorney's Office in Burlington and Rutland, Vermont. Did you or your family have any dealings with that office?
- (7) Do you know any of the lawyers for Plaintiff, Sarah Nunan, Geoffrey Vitt or Eric Jones?
- (8) Do you know anyone who works for either of their law firms, Vitt & Nunan or Langrock Sperry & Wool?
- (9) Do you know any of the following individuals who may either be witnesses or the subject of testimony in this case?
 - a. Emily Baker
 - b. Robert L. Bancroft

- c. Donna Bedard
- d. Ira Bernstein
- e. Deborah Birenbaum
- f. Karen Boedtker
- g. Jocelyn Chertoff
- h. Aimee Claiborne
- i. Joanne Conroy
- j. Dennis Dela Cruz
- k. Leslie DeMars
- l. Navid Esfandiari
- m. Karen George
- n. Jenice Gonyea
- o. Heather Gunnell
- p. Daniel Herrick
- q. Albert Hsu
- r. Michele King
- s. Eunice Lee
- t. Julia MacCallum
- u. Kathleen Mansfield
- v. Victoria Maxfield
- w. Judith McBean
- x. Edward Merrens
- y. Kelly Mousley

z. Maria Padin
aa. Sharon Parent
bb. Misty Blanchette Porter
cc. Michelle Russell
dd. Dennis Seguin
ee. David Seifer
ff. Barry Smith
gg. Judy Stern
hh. Kris Stohbehn
ii. Katrina Thorstensen
jj. Elizabeth Todd

(10) Do you understand that this is a civil case, meaning that the Defendants are not accused of a crime?

(11) Do you understand that in our system of justice, a plaintiff has to prove certain things in order to prevail? Do you understand that even if Defendants offered no evidence, if Plaintiff Misty Blanchette Porter, M.D., ("Plaintiff") did not prove everything she needs to prove, the Defendants would still win?

(12) Just because Defendants were sued in the underlying case does not mean they did anything wrong. If Plaintiff fails to prove her case, would you have any difficulty returning a verdict for Defendants?

(13) Have ever served as an expert witness in litigation? If yes, in what area of expertise?

(14) Can you abide by your oath to apply the instructions the Court gives you fairly and honestly, and decide the case solely based on the law and not sympathy for one party or another, based on the facts you find?

II. Proposed Subject Matter of Attorney-Conducted Voir Dire

Defendants request that they be permitted to ask questions of the prospective jurors regarding the following subject matters (which shall be interpreted to include reasonable follow-up questions), which Defendants contend seek factual information about the prospective jurors' background and experience pertinent to the issues expected to arise in the case, may reveal preconceptions or biases relating to the identity of the parties or the nature of the claims or issues involved in the case, or inquire into the prospective jurors' willingness and ability to accept and apply pertinent legal principles as instructed.

(15) Have you ever worked for a hospital? Does this impact your ability to fairly decide this case? If so, why?

(16) Have you, your family, or close friends had experiences with health care institutions that have gone well overall? Not gone well overall?

(17) Do you have any strong feelings or opinions about our country's medical system?

(18) Do you have any strong feelings or opinions about women's healthcare?

(19) Do you have any strong feelings or opinions about invitro fertilization ("IVF")?

(20) Have you or any of your immediate family members ever suffered from infertility? When? If yes, are you/they doing better today?

(21) Do you understand that medicine is still an art, and not a fully formed science, meaning that there are not definitive answers to many questions in medicine, so that medical professionals have to make judgment calls?

(22) Have you or any member of your family been accused of discriminating against an employee in either an EEOC Charge of Discrimination or a discrimination lawsuit?

(23) Have you or your family ever made a discrimination claim at work?

(24) Have you or a member of your family ever made a complaint against your employer regarding a medical leave of absence or any other leave of absence?

(25) Do you have an opinion—whether positive or negative—about workers who allege discrimination?

(26) If a person with a disability is terminated from her job, would you assume that anti-disability bias is at work?

(27) Can you think of anything in your life that reminds you of this case? What and how?

(28) Do you have any strong feelings about money damages awarded in litigation?

(29) Is there anything else that you believe might make it difficult for you to be fair and impartial in this case?

Date: March 24, 2025

Respectfully submitted,

DARTMOUTH-HITCHCOCK MEDICAL
CENTER, DARTMOUTH-HITCHCOCK CLINIC,
MARY HITCHCOCK MEMORIAL HOSPITAL,
and DARTMOUTH-HITCHCOCK HEALTH,

By their attorneys,

/s/ Tristram J. Coffin

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CERTIFICATE OF SERVICE

I hereby certify that, on March 24, 2025, a copy of the foregoing document was electronically filed through the ECF system and will be sent electronically to all persons identified on the Notice of Electronic Filing.

/s/ Megan E. Martinez

Megan E. Martinez